

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:CORP:B06

PLR-114489-07

Date:

December 04, 2007

Legend

Distributing =

Controlled =

Sub 1 =

Sub 2 =

Shareholder A =

Shareholder B =

Shareholder C =

X% =

Y% =

Business D =

Business E =

Business F =

Dear :

This letter responds to your letter dated February 28, 2007, requesting rulings as to the federal income tax consequences of a proposed transaction. The material information submitted in the February 28, 2007 letter as well as letters dated August 14, 2007, October 1, 2007, October 8, 2007, October 15, 2007, November 6, 2007, November 20, 2007 and November 27, 2007 is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process. Moreover, no information provided by the taxpayer has been reviewed and no determination has been made regarding whether the proposed transaction: (i) satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b); (ii) is used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation or both (see § 355(a)(1)(B) of the Internal Revenue Code (the "Code") and Treas. Reg. § 1.355-2(d)) or (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a fifty percent or greater interest in the distributing corporation or the controlled corporation (see Code § 355(e)(2)(A)(ii) and Treas. Reg. § 1.355-7).

Facts:

Distributing is the common parent of an affiliated group of corporations that files a consolidated federal income tax return. Distributing has a single class of voting common stock outstanding. Shareholder A and Shareholder B each own X% of the stock of Distributing. The other Y% of Distributing stock is owned by Shareholder C. Distributing is a pure holding company with three wholly owned subsidiary corporations, Controlled, Sub 1 and Sub 2. Controlled has a single class of common stock outstanding and is engaged in Business D. Sub 1 is engaged in Business E and Sub 2 is engaged in Business F. Each of the subsidiaries has been owned by Distributing for over five years. Financial information has been received indicating that each of

Business D, Business E and Business F has had gross receipts and operating expenses representative of an active trade or business for each of the past 5 years.

To eliminate the holding company structure, focus the management of the Business D and Business E on their respective businesses, and to eliminate the legal actions against Business D and Business E from subjecting both Distributing and Controlled to both business's legal actions, Distributing proposes to engage in the proposed transaction described below.

Proposed Transaction:

Distributing will distribute all of the Controlled stock pro rata to its three shareholders (the transaction will hereinafter sometimes be referred to either as the "Distribution" or the "Proposed Transaction"). No assets will be transferred and no liabilities will be assumed as part of the Proposed Transaction.

Merger Transaction

Immediately after the Distribution, Sub 1 will be merged into Distributing and Distributing will change its name to that of Sub 1 (the "Merger transaction").

Distributing represents that the merger of Sub 1 with and into Distributing will qualify as a tax free reorganization under Code § 368(a)(1)(A).

Representations:

The following representations have been made with respect to the Distribution:

- a. No part of the consideration to be distributed by Distributing will be received by a shareholder as a creditor, employee or in any capacity other than that of a shareholder of the corporation.
- b. No part of the consideration to be distributed by Distributing will be received by a security holder as an employee or in any capacity other than that of a security holder of the corporation.
- c. The five years of financial information submitted on behalf of Controlled is representative of the corporation's present operation, and with regard to such corporation, there have been no substantial operational changes since the date of the last financial statements, submitted.
- d. The five years of financial information submitted on behalf of Sub 1 (a member of the Distributing Separate Affiliated Group ["SAG"] under Code § 355(b)(3)(B)) is representative of the corporation's present operation, and with regard to such

corporation, there have been no substantial operational changes since the date of the last financial statements, submitted.

- e. The five years of financial information submitted on behalf of Sub 2 (a member of the Distributing SAG) is representative of the corporation's present operation, and with regard to such corporation, there have been no substantial operational changes since the date of the last financial statements, submitted.
- f. Following the Proposed Transaction, the Distributing SAG and Controlled SAG will each continue the active conduct of its business, independently and with their separate officers, directors and employees.
- g. The Distribution is carried out for the following business purposes: to minimize exposure of Distributing and Controlled to outside creditors, to improve the fit and focus of the business model, to facilitate the obtaining of capital in the future and to reduce the administration overhead associated with a holding company. The distribution of the stock, or stock and securities, of Controlled is motivated, in whole or substantial part, by one or more of these corporate business purposes.
- h. The Distribution will not be used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both.
- i. No liabilities are being transferred or assumed as part of the Proposed Transaction.
- j. No property is being transferred between Distributing and Controlled.
- k. No income items, including accounts receivable or any item resulting from a sale, exchange or disposition of property, that would have resulted in income to the Distributing corporation, and no items of expense will be transferred to the Controlled corporation if the Distributing corporation has earned the right to receive the income or could claim a deduction for the expense under the accrual or similar method of accounting.
- l. No intercorporate debt will exist between Distributing and Controlled at the time of, or subsequent to the Distribution of the Controlled stock.
- m. Immediately before the Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see Treas. Reg. §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-32 I.R.B. 6, and as currently in effect; Treas. Reg. § 1.1502-13, as published by T.D. 8597). Furthermore, Distributing's excess loss account, with respect to its Controlled stock will be included in income immediately before the distribution (see Treas. Reg. § 1.1502-19).

- n. Payments made in connection with all continuing transactions, if any, between Distributing and Controlled will be based on terms and conditions arrived at by the parties bargaining at arms' length.
- o. The Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a fifty percent or greater interest (within the meaning of Code § 355(d)(4)) in Distributing or Controlled (including any predecessor or successor of any such corporation).

Rulings

Based solely on the information submitted and the representations set forth above, this Office rules as follows:

1. No gain or loss will be recognized by Distributing on the Distribution. Code § 355(c).
2. No gain or loss will be recognized by (and no amount will otherwise be included in the income of) any shareholders of Distributing stock on the receipt of the Controlled stock from Distributing. Code § 355(a)(1).
3. The aggregate basis of the Distributing stock and the Controlled stock in the hands of Distributing shareholders immediately after the Distribution will be the same as the aggregate basis of the Distributing stock held by such shareholders immediately prior to the Distribution, allocated in proportion to the fair market value of each in accordance with Treas. Reg. § 1.358-2(a)(2). Code §§ 358(a)(1), (b), and (c).
4. The holding period of the Controlled stock received by Distributing shareholders will include the holding period of the Distributing stock with respect to which the Distribution was made, provided that such Distributing stock is held as a capital asset on the date of the Distribution. Code § 1223(1).
5. Earnings and profits will be allocated between Distributing and Controlled in accordance with Code § 312(h) and Treas. Reg. §§ 1.312-10(b) and 1.1502-33(e)(3).

Caveats

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

No opinion is expressed about the tax treatment of the Distribution under other provisions of the Code or regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the Distribution that are not specifically covered by the above rulings. In particular, no opinion is expressed regarding whether the Proposed Transaction: (i) satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b); (ii) is used principally as a device for the distribution of the earnings and profits of the Distributing corporation or the Controlled corporation or both (see Code § 355(a)(1)(B) and Treas. Reg. § 1.355-2(d)) or (iii) is part of a plan (or series of related transactions), described under Code § 355(e)(2)(A)(ii), pursuant to which one or more persons will acquire directly or indirectly stock representing a fifty percent or greater interest in the Distributing corporation or the Controlled corporation.

No opinion is expressed as to the tax treatment of the subsequent Merger transaction.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Temporary or final regulations pertaining to one or more of the issues addressed in this ruling have not yet been adopted. Therefore, this ruling will be modified or revoked by the adoption of temporary or final regulations, to the extent the regulations are inconsistent with any conclusion in the letter ruling. See section 11.04 of Rev. Proc. 2007-1, 2007-1 I.R.B. 1, 49. However, when the criteria in section 11.06 of Rev. Proc. 2007-1, 2007-1 I.R.B. 1, 50 are satisfied, a ruling is not revoked or modified retroactively except in rare or unusual circumstances.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Steven J. Hankin
Senior Technician Reviewer, Branch 6
Office of Associate Chief Counsel
(Corporate)

cc: